RECENT CASES.

BANK DEPOSITS—DEMAND—TOBIAS v. MORRIS, 28 Sou. Rep. (Ala.) 517.—Where suit was brought for money deposited in a bank but no demand made at the bank for its payment. *Held*, no recovery.

There is authority to the effect that the filing of the suit would constitute the demand, but equally strong authority is found to the contrary: *Branch* v. *Dawson*, 33 Minn. 399; *Downes* v. *Banks*, 6 Hill 297, 2 Am. & Eng. 101.

CARRIERS—TERMINAL CHARGES—INTERSTATE COMMERCE COMMISSION v. CHICAGO, B. & Q. R. R., 103 Fed. 249.—A charge of two dollars per car on live stock consigned to or from Chicago in addition to the regular charge for transportation, when published as part of their rates, is not unreasonable and unjust. Grosscup, C. J. (dissenting).

From this decision it would seem that a railroad need not furnish the same terminal service for live stock that they are required to for freight and passengers. The distinction thus drawn does not seem to be an entirely satisfactory one. Live stock can hardly be considered to-day, as an exceptional kind of traffic. If the railroads furnished some means for receiving the stock, and it was for the special convenience of the consumer that it was sent to the stock-yards, then there might be some grounds for sustaining the extra charge. But as it is, the distinction seems unwarranted.

CARRIERS—INJURY TO PASSENGER—LURCH OF ENGINE—INSTRUCTIONS—CONTRIBUTORY NEGLIGENCE—ENGINEER'S AUTHORITY—CLAIRBORNE v. MISSOURI, ETC. RY. CO. OF TEXAS, 57 S. W. 336.—Plaintiff paid brakeman less than regular fare and was directed to sit on the foot-board of the engine. While in the act of accepting an invitation from the engineer to ride in the cab, he fell, owing to a sudden lurch of the engine. *Held*, that the R. R. was liable for his injuries.

In *McDonald* v. *R. R. Co.*, 22 S. W. 939, the court well said that "the negligence or trespass of a person does not place him beyond the protection of the law, and does not excuse another for failure to exercise care to avoid injuring him; much less does it justify a wilful injury." See also, *R. R. Co.* v. *Jazo*, 258 S. W. 714. As the engineer was responsible for the sudden lurch of his machine and the act might be said to be within the scope of his duties, the employer is responsible for the resulting injury. *Burnett* v. *Occhsner*, 50 S. W. 562. *R. R. Co.* v. *Zantzinger*, 53 S. W. 379.

DEDICATION—EVIDENCE—PALEN v. CITY OF OCEAN CITY.—46 Atl. 774 (N. J.)—In 1880 The Ocean City Association, a body corporate, being owner of a large tract of land in the county of Cape May, constructed a road leading to the bay, at the end of which there was a wharf, part of which projected beyond high water mark. The map of street with said wharf marked thereon was filed by the association with the county clerk. In 1886 the association conveyed to the plaintiff the wharf and certain other property. In 1897 the defendant was incorporated a city, and subsequently took possession of the wharf. Plaintiff brought an action of ejectment, decision was given in favor of defendant. Plaintiff appeals. Judgment reversed.

Defendant contends that the wharf was dedicated to public use, when map of the road and wharf was filed. This is certainly the rule as to roads, parks, etc. (*Price* v. *Inhabitants of Plainfield*, 40 N. J. Law 608). In Tiedeman on Real Property, page 579, it says, "any act such as platting and recording a map, in which the streets are laid out, which shows a clear intention to dedicate the land to the public use will be sufficient." But the court finds a distinction between a wharf and a street based on the case of *O'Neill* v. *Annett*, 27 N. J. Law 290, 295, which says that the principle of dedication does not extend to public landings.

EQUITY—INJUNCTION—PROTECTING EASEMENT—IVES V. EDISON, ET AL, 83 N. W. 120.—Where, by deed conveying to complainant a store in a block, there was granted to her an easement in a flight of stairs leading to the second story, at the point at which the stairs were then located, and she refused permission to change the location of the same, and commenced suit to enjoin the change before it occurred, she is entitled to an injunction, though, after the bill was dismissed, defendants, without waiting for the appeal, made the change, so that the restoration of the stairs will cost them more than a jury might consider it worth to the complainant. Hooker, J. and Long, J., dissenting.

As a general rule equity will only grant an injunction when irreparable injury has been done, or is threatened. *Starkie* v. *Richmond*, 155 Mass. 188; *Hall* v. *Rood*, 40 Mich. 46; 3 *Pom. Ex. Jur.* §1295, note. Irreparable injury does not mean that there must be no physical possibility of repairing the injury. It means that the injury must be a grievous one, and not adequately reparable in damages. *Kerr on Injunctions*, p. 199, c. 15, §1. *Switzer* v. *McCulloch*, 76 Va. 777. The court seems to have thought that damages from repeated suits would not have compensated the complainant and therefore granted this injunction. The dissenting judges hold that this case would have its appropriate remedy in a court of law and that an injunction should not be granted. There are many cases similar to this, the decisions of which have been varied between the two opinions given above. The weight of authority may be said to be on the court side.

FORGERY—NOTE—LACK OF REVENUE STAMP—INVALIDITY OF INSTRUMENT —NOTE GOOD ON FACE—KING V. STATE, 57 S. W. 840.—A forged note did not bear a revenue stamp and the forged signature was that of a married woman without her husband joining. *Held*, no defense. Henderson, J., dissenting.

As there was nothing on the note to show that the one by whom it purported to be made was a married woman, it is not relieved of its forged character, since to be void, the invalidity must appear on the face of the forged instrument. *Bishop Cr. Law*, 539. 3 *Chit. Cr. Law*, 1035. 13 *Am. & Eng. Enc. Law*, 1088. Lack of a revenue stamp to a forged instrument is no defense. *Thomas* v. *State*, 51 S. W. 242. The dissenting Justice contended that an instrument to be the subject of forgery must be such as would, if genuine, create a valid obligation. *Coffey* v. *State*, 36 Tex. Cr. R. 198. *Johnson* v. *State*, 51 S. W. 382.

INSURANCE—DISAPPEARANCE OF INSURED—COMPROMISE—SEARS V. GRAND LODGE OF ANCIENT ORDER OF UNITED WORKMEN—57 N. E. 618.—One insured for $2,000 in the defendant's society disappeared, and was not heard of for nine years. His widow believing him dead sued on the policy. To dispose of the suit it was agreed that the defendant should pay $666 of the insurance, which was in no event to be returned, and to pay the remaining $1,334 in sixteen months, if insured did not return in the meantime. Before the $666 was paid the insured returned. *Held*, that the defendant must nevertheless pay the $666. J. Graw dissenting.